

California Regional Water Quality Control Board
Santa Ana Region

STAFF REPORT

March 2, 2007

ITEM: *6

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal System Use – Eduardo Herrera-Briones, 11013 Alder Avenue, Bloomington, San Bernardino County – APN 0256-091-25

DISCUSSION:

On February 1, 2007, Mr. Herrera-Briones contacted staff regarding the proposed construction of a second dwelling unit (mobile home) on his lot at 11013 Alder Avenue, Bloomington. Mr. Herrera-Briones resides in an existing 700 sq ft. home located at the site. An existing subsurface disposal system is utilized for the discharge of domestic waste from the house. The gross size of the lot is slightly less than one acre (40,946 sq. ft or 0.94 acre, including easements). This area of the County is unsewered and on-site septic tank-subsurface disposal systems are utilized for disposal of domestic waste.

Mr. Herrera-Briones is proposing to install a second mobile home on his lot for his mother, who is ill. A new septic tank-subsurface disposal system is proposed for the discharge of domestic waste from this second dwelling unit.

On October 13, 1989, the Regional Board adopted Resolution No. 89-157, which requires new developments for which on-site subsurface disposal system use is proposed to have a minimum one-half acre of land per dwelling unit. The Board found that it was necessary to limit the density of new subsurface disposal systems to control the nitrate quality problems found in the groundwater of the Region. Mr. Herrera-Briones proposed development is a new development as defined in Resolution No. 89-157 and is therefore subject to the minimum lot size requirements specified therein. With a density of 0.47 acres per dwelling unit, Mr. Herrera-Briones proposal does not comply with the Board's minimum lot size requirements. Accordingly, Board staff denied Mr. Herrera-Briones' request for an exemption from the minimum lot size requirements.

In adopting the minimum lot size requirements (MLSRs), the Board recognized that it was necessary to distinguish between "existing" developments using subsurface disposal systems (i.e., those already in place or approved at the time the MLSRs were adopted), and "new" developments. The Board specifically exempted from the one-half acre requirement existing developments where septic tank-subsurface disposal systems

had been installed by September 7, 1989 or for which conditional approval (e.g. conditional use permit, or conditional approval of tentative parcel or tract map) had been obtained by that date. The one-half acre requirement applies only to "new" developments.

The Board also recognized that there would likely be proposals for additions to existing developments that would result in increased wastewater flow. The Board's MLSRs address these circumstances. The MLSRs distinguish between the types of additions to existing dwelling units. Additions to existing dwellings (bedrooms/bathrooms) are exempt from the MLSRs. However, the MLSRs state that any proposal to add a freestanding structure that would result in additional wastewater flows must be considered a "new" development. The intent of distinguishing between additions that are attached to existing dwellings and freestanding structures was to guard against the use of the freestanding structure as a second single-family residence on the property, which would result in substantial additional wastewater flows.

The proposed second dwelling unit (mobile home) on Mr. Herrera-Briones property would be a freestanding structure. As such, the project as a whole (the existing house and the second dwelling unit must now be considered a "new" development to which the one-half acre minimum lot size requirement applies. Mr. Herrera-Briones' lot is slightly less than one acre in size (2,614 sq. ft short) and, therefore, staff was required to deny the request for a clearance for the project.

However, staff believes that since the lot is very close to the required 1-acre minimum requirement (0.94 acre), this factor would support granting an exemption for this proposed project.

RECOMMENDATION:

Approve Mr. Herrera-Briones' request for an exemption from the minimum lot size requirements.

Comments were solicited from the following agencies:

State Water Resources Control Board, Office of Chief Counsel – Erik Spiess
San Bernardino County Environmental Health Services – Corwin Porter
San Bernardino County Building and Safety – Barbara Johnston